



## **FLINT JUDICIAL CIRCUIT**

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# **HENRY COUNTY STATE COURT GUIDE FOR RESUMING JURY TRIALS**

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**June 1, 2021**

### **COMMITTEE MEMBERS:**

- Ben W. Studdard, III, Chief Judge of State Court, Co-Chair State Court Working Group
- Pam Bettis, Solicitor Co-Chair, State Court Working Group
- David B. Brown, Judge of State Court
- Danielle P. Roberts, Judge of State Court
- Vincent “Vinny” Lotti, Judge of State Court
- Lynne Policaro, Clerk of State Court
- Elizabeth Pier, Jury Clerk, State Court

The leadership of the State Court of Henry County have convened, inspected and considered the available facilities and infrastructure, consulted with medical and/or public health officials and consistent with the Order of the Chief Justice and the Guidelines promulgated by the Judicial Covid-19 Task Force, have endeavored to develop a plan for resuming jury trials which ensures the health, safety and constitutional

protections of all participants in the judicial system, including jurors and potential jurors, litigants, witnesses, lawyers, judges, court personnel and the public.

**I. LOCATION OF FACILITIES FOR JURY ASSEMBLY, VOIR DIRE AND JURY TRIALS**

State Court Jury Trials shall take place at One Judicial Center, located at 44 John Frank Ward Blvd, McDonough, Georgia.

**II. GENERAL PUBLIC HEALTH AND SAFETY GUIDELINES**

The following guidelines shall always be in force during jury assembly, voir dire, and trial:

**A. Sanitization Procedures**

All common areas of the facility, including the courtrooms, hallways, bathrooms and elevators shall be sanitized in accordance with the CDC publication Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools and Homes by use of approved cleaning products and routine disinfection of frequently touched surfaces. To the extent practicable the published CDC guidance regarding building ventilation shall also be followed. To the extent possible, the blinds should be opened and the door to the courtroom should remain open during the proceedings.

**B. Face-Covering Requirements**

All visitors and court personnel, including jurors, litigants, witnesses, attorneys, security officers, bailiffs and the public are required to wear a Face Covering (defined as a cloth or fabric covering of the mouth and nose, but not the rest of the face, except as otherwise provided herein) to enter the Judicial Center. The face covering must remain in proper position over nose and mouth at all times while in any public area (defined as any part of the Judicial Center not reserved for staff and any room where any other person is present) of the Judicial Center. All deputies, bailiffs, and other staff employed at the Judicial Center will remain vigilant and politely ask any unmasked person in the Judicial Center to put on a mask. Any jurors who arrive without a mask will be provided one at the entrance.

Jurors will be provided KN-95 masks (if available) for use during the proceedings. “Gaiters” and bandanas are not acceptable face-coverings for use by those who are present in the Judicial Center.

To ensure that a witness’s face can be clearly seen, witnesses shall testify without a face-covering from behind a plexiglass shield or may wear a face-shield. If medical grade “clear masks” are available, such masks shall be worn by the witnesses. If enough of the clear masks are available, such masks may be worn by the attorneys during their closing argument.

**C. Social-Distancing Protocol**

The seating for all visitors, participants, court personnel, and the public shall be arranged such that they are located at least six (6) feet from all other persons. Provided they remain properly masked, counsel may sit closer to their clients in order to communicate as necessary. The Court will provide breaks as may be necessary to allow the attorneys to meet privately with their clients in the rooms available in the Judicial Center which will allow them to have confidential discussions while socially-distancing.

**D. Posting of Notice at the Entrance to the Facility**

A conspicuous written notice shall be posted at the entrance to the Judicial Center. The notice shall state that persons who are currently experiencing symptoms of Covid-19, have experienced such symptoms within 14 days prior, have been exposed to Covid-19, or have tested positive for the virus, are not permitted to enter the Judicial Center. The notice shall further provide that any such persons who have necessary business involving the proceedings shall contact the Clerk of Court or the Court for direction as to how they participate by virtual means (or how they may be otherwise accommodated).

**E. Notification of Stakeholders that a Judicial Center visitor or Judicial Center personnel have tested positive for the Coronavirus**

Each judge, elected official, or other public official with an office in the Judicial Center shall notify the County Manager and Chief Judge of any instance where they are notified that an employee working in the Judicial Center or a visitor to the

Judicial Center has been diagnosed with Covid-19, is awaiting the results of Covid-19 testing, or has reported to the supervising official that they are experiencing symptoms of Covid-19. The Chief Judge or County Manager shall then immediately notify the other officials or department heads with offices in the Judicial Center, so that they can determine whether any of their employees have had contact with the other employee or visitor which would put them at risk of contracting the virus.

Current Department of Public Health Guidelines do not require the isolation or quarantine of court personnel who have been exposed to the virus as they are considered as essential or critical workers. Those guidelines require, instead, that such exposed workers must mask, distance, and monitor their temperature and symptoms. However, because of the danger posed to the public and other employees working in a court facility, in the event that a judge, public official, officer or supervisor becomes aware that an employee has been exposed to the virus within the meaning of the CDC/DPH guidelines, that employee SHALL NOT enter the Judicial Center nor shall they have any contact with other court personnel until their supervisor has consulted with the Chief Judge and Public Health officials.

#### **F. Miscellaneous Provisions**

Hand sanitizer shall be available at the entrance and throughout the Judicial Center. The temperature of all persons entering the Judicial Center shall be checked and anyone who has a temperature of 100.4 degrees Fahrenheit or greater shall not be permitted to enter.

Court personnel shall be placed at the security checkpoint to provide the following instructions to jurors:

- Direct jurors to the Jury Assembly room or appropriate courtroom;
- Inform jurors about requirements for riding the elevator;
  
- Direct jurors to use the stairs, if able;
  
- Inform jurors about which floor to exit elevator or stairway.

Crucial to the health and safety provisions of the plan are the specific guidelines set forth below which provide:

- For the excusal of any prospective jurors who are considered to be “vulnerable” to serious complications from the Covid-19 virus;
- For inquiry into whether a prospective juror is experiencing any of the symptoms of Covid-19 or has been exposed to the virus;
- For the notification of stakeholders when Judicial Center personnel or visitors have tested positive for the virus; and
- For the procedure to be followed when a juror, litigant, attorney or other participant present during the proceedings experiences possible Covid-19 symptoms or has an exposure to the virus during the trial.

### **III. SPECIFIC PROCEDURES FOR THE SUMMONING, SELECTION, AND EMPANELLING OF JURORS AND TRIAL**

#### **A. Summons**

When jurors are initially summoned the Clerk will mail:

- A Summons directing jurors to the court’s website to fill out a questionnaire, and to call for reporting instructions.
- A notice highlighting the steps taken by the court to ensure their health and safety and providing a contact number to call with health-related questions or concerns, or requests for excusal/deferral.

#### **B. Excusals and/or Deferrals**

Prior to jurors reporting on the date of their service, the Court and Clerk's Office will work cooperatively to determine whether any prospective juror should be excused or have their service deferred due to medical concerns. The Clerk shall be authorized to excuse or defer any prospective juror who:

- Meets the statutory criteria for excusal or deferral;
- Is considered to be “vulnerable” for complications from the Coronavirus;
- Reports that they are experiencing any of the symptoms of the Coronavirus;
- Reports that they have been exposed to the virus; or
- Reports that they have tested positive for the virus or have experienced the symptoms of the virus within 14 days prior to the date they are scheduled to report.

Prospective jurors will be provided a contact number and shall be instructed to call within 48 hours in advance of the appearance date to determine when and if they are to appear and to confirm that they are not experiencing any symptoms of Covid-19 and have not been exposed to the virus. In the event that a juror reports that within 14 days prior to the date they would be required to report they have experienced the symptoms of Covid-19, have received a positive test for the virus or have been exposed to the virus and certifies such fact in a manner authorized by the Clerk, they shall be excused or deferred.

Any questions concerning an excusal or deferral shall be addressed by the Clerk to the presiding judge.

### **C. Check-In**

On the morning of service, jurors will encounter the following safety precaution.

- Expanded Reporting Window - Jurors will be instructed in their reporting message to report to the Jury Assembly Room in the Judicial Center. The check-in table will have masks, face shields, hand sanitizer, Lysol spray and wipes on hand. Jurors will be given staggered report times in panels. Jurors will be screened through a daily thermal scanning process to check their temperatures.
- Temperature Screening - Any potential juror who reports with a 100.4-degree temperature or higher must give his/her name and contact information to the employee overseeing the thermal scanning. The clerk's office will receive the potential juror's information and contact the juror to be rescheduled. As with all visitors, any person with a reading above the threshold will be given a fifteen-minute cool-down period and will be re-tested, before being excused.
- Face Coverings – See Section II.B., above.
- Check-in – Jurors will check in with the jury clerk at the entrance to the Jury Assembly area on each day of service. Following check-in, jurors will be directed to their seats.
- Disposable Badges – At check-in, each juror will receive a disposable badge, rather than the clip-on badges.

- Hand Sanitization Stations – There are several hand sanitization stations strategically placed throughout the Judicial Center.
- HEPA Filtration – A portable Merve 13 filtration system will be used in the Judicial Center to provide additional protection.
- Deep Cleaning of Judicial Center – Cleaning service workers will sanitize the Judicial Center during the proceedings and in the mornings before the proceedings commence based on the guidelines from the Department of Public Health.

#### **D. Jury Selection**

- Jury Selection will take place in panels of 14 persons in the jury assembly room on the first floor of the Judicial Center or in the courtroom, with only one panel present in the same room at the same time with sufficient space for social distancing. All other jurors in the jury pool shall either wait in their vehicle or at some other location within the Judicial Center, as they wait for further instructions.
- The Judge shall re-qualify the jurors chosen for a particular trial when they arrive to the courtroom, in the presence of the defendant and on the record.
- Strikes for cause should be taken up before that panel is released.
- Panels shall not be present in the courtroom while the lawyers exercise their strikes. See *Martin v State*, 205 Ga. App. 591 (1992).

#### **E. Trial**

##### **1. General Protocols**

- a) The protocols set forth above relating to social-distancing, face-coverings and sanitization will always apply during the trial.
- b) Jurors will be provided with a point of contact if potentially exposed to COVID-19 or experiencing symptoms of COVID-19. Jurors reporting exposure to COVID-19 or experiencing symptoms. Any juror who does not pass the temperature check or COVID screening questions will be instructed to return to their vehicle outside of the courthouses and the Clerk will speak with them by phone with instructions as to how they should proceed after speaking to the judge if necessary.

c) Jurors selected to serve shall be instructed to contact the Clerk if they learn that they were exposed to the virus prior to or during the trial or if they experience any Covid-19 symptoms. Such jurors will be excused and instructed not to report and to contact the Health Department. If available, rapid testing will be made available to those jurors. The remaining jurors will be notified of the event without naming the excused juror and they will also be offered the opportunity to have a rapid test. In the event that there is a concern as to whether any other jurors should be excused or whether another participant may have to be isolated or quarantined requiring a continuance or mistrial, the Court and the attorneys will consult with the District Health Director or their designee prior to making a decision.

d) Judges should require mandatory pretrial conferences with all lawyers participating in the cases called for trial. At a minimum, said conferences should take place the week before trial to make sure both sides are clear on all the changes that COVID-19 has necessitated. At the conference, the Judge should try to handle as many pretrial issues as possible, so that they do not delay the jurors reporting to the courtroom on the morning of trial. During the pretrial conferences, the lawyers and the Judge will discuss the number of witnesses and timing for their appearance in the courthouse or facility, as well as where each party's witnesses will wait until called to testify. To the extent possible, the lawyers should stagger witness report times, but should only do so after a consultation with the Judge and the other side to ensure that jurors are not left waiting around for witnesses to arrive. It is also important to make sure both sides are familiar with the technology, especially the digital presentation of evidence.

The Court shall endeavor to have clear masks for jurors and witnesses on standby to accommodate voir dire and witness testimony. Due to difficulties guiding the jurors throughout the courthouses, it is anticipated that trials will necessitate the use of three bailiffs. Each time jurors report back to the courthouse or facility, they will be re-screened. Bailiffs will meet the jurors at the designated time, at the thermal check station and escort the jurors to the jury room after they pass the thermal scanner and answer the two COVID-related questions. Any returning juror who does not pass the temperature check or COVID screening questions will be brought to the trial Judge's attention immediately. Meanwhile, the Jury Administration bailiff will wait with the juror until



instructions are received from the trial Judge.

e) COURTROOM LAYOUT

During voir dire, venire members will be spaced six feet apart in the jury assembly room or the courtroom. All seats shall have clear sightlines to the attorneys and the Judge's bench. For seating during the trial, six jurors (plus alternate if necessary) will be spaced six feet apart in the courtroom in the marked seats. All seats shall have clear sightlines to the witness stand, the Judge's bench, and the evidence display screen, if used for evidence.

Once jurors receive a seat assignment, they will remain in their assigned seat for the duration of the trial unless they need to be moved due to a hearing or vision issue.

Care should be taken to accommodate those jurors with hearing or vision impairments and place them in seats with the closest proximity to the witness stand.

Courtroom audio-visual technology will be employed so that the witnesses may be seen and heard from all areas of the courtroom. Jurors will be instructed to let the judge know if they are having any difficulty hearing or seeing.

The appropriate number of HEPA filtration units will be strategically positioned in the courtroom in an attempt to filter air near the witness stand, judge's bench, and courtroom gallery.

Space will be assigned in the facility for anyone wishing to view the proceedings such as the defendant's immediate family members, victims and their immediate family, general public, and media. In the event of a large crowd, overflow facilities will be provided for video viewing.

The Court reporter will sit in the deputy's chair so as to be near the witness. The deputy shall sit in a location which provides him/her with the best vantage point for courtroom security without disrupting the trial.

The clerk may appear by Webex or Zoom.

If counsel need to conference with the defendant or a witness, a separate room shall be designated for such purpose.

If a Rule 22 request is received and approved by the Court, the Judge shall discuss camera angles and the unusual seating arrangement of the jurors with the covering news agency to ensure that no jurors are shown in the coverage.

## **2. Movement of the Defendant**

The Department of Public Health indicated that an incarcerated inmate should be treated as an asymptomatic spreader of the Covid-19 virus. This means we should take extreme precautions when interacting with the defendant. The court and attorneys will work to identify at least 5 cases that are ready for trial. Those five names shall be provided to the jail at least 14 days prior to trial. Upon receipt of this information, the jail will quarantine those individuals. During this time the individuals shall be tested, the last test occurring within 72 hours of trial. The individuals will then be produced for court and will remain in quarantine through the resolution of their matter. In the event a trial does occur, the remaining individuals will be released from quarantine. While in the judicial center, the defendant will use his/her own facilities and the jury deliberation room will be designated as a space for the defendant and defense lawyers to have conferences. The defendant shall not be allowed to use the bathroom in the jury deliberation room.

## **3. Evidence Presentation and Examination of Witnesses**

Documentary exhibits shall be tendered, admitted, and published to the jury in electronic format. Exhibits shall be displayed to the jury on the large screen television placed in the courtroom or through the courtroom projection system.

If an item of physical evidence is admitted, anyone handling the exhibit shall wear gloves. If the item of physical evidence is passed among the jurors for examination, they shall be provided with gloves which will be worn while they are handling the item and disposed of immediately afterwards.

Attorneys will present their case from their own podium and will seek permission from the Court before moving freely about the courtroom. Otherwise, they will remain at counsel table and the podium. Attorneys will be provided wipes and will be responsible for wiping down the podium, and anything else they touched, before returning to their table. They will also be asked to wipe down their table at the end of the day.

The bailiff will have a supply table with extra disposable masks, gloves, tissues, juror pads and pencils, and bottled water. Jurors should keep up with their own items, so as to prevent sharing. The bailiff will also have hand sanitizer, paper towels, and disinfecting spray available.

A plexiglass shield will be installed at the witness stand to ensure the safety of the witness.

The witness stand and chair will also be wiped down (either by the witness or by counsel) after each witness finishes his/her testimony and before the next witness is called.

#### BENCH CONFERENCES

- It will be difficult to usher the jury in and out of the courtroom for routine arguments that normally happen outside of their presence.
- Bench conferences between the Judge and lawyers are encouraged.
- Pursuant to *Zamora v State*, 291 Ga 512 (2012), a defendant has a right to be present at a bench conference. However, that right is waivable. The Court shall have a discussion on the record, before the start of trial, to see if the defendant will waive his/her right to be present at bench conferences.
- Since a bench conference will necessarily take place less than six feet from the microphone on the bench, all parties to the conference should wear their masks and face shields while taking care to speak directly at the bench microphone for the benefit of the court reporter.
- Bailiffs will be stationed outside of each door to the jury room and shall keep the area secure.
- Each jury room will have a hand sanitization station.
- Jury rooms will be cleaned every morning. Jury restrooms will be cleaned at lunch and nightly. Cleaning wipes, soaps and sprays will also be available in the restrooms for juror use to clean before and after use.

#### **4. Timing of Resumption of Jury Trials**

Subject to a change in the public health situation in the community, the Committee believes that with the implementation of these guidelines, jury trials could safely

commence during the month of June 2021.

As set forth in the most recent Statewide Declaration of Judicial Emergency issued by the Chief Justice, priority will be given to the trial of criminal cases, specifically those where a demand for speedy trial has been filed or where the Defendant is in custody. Civil cases may be scheduled as “back-up” to the criminal trial calendar.

Priority will be given to cases which are the most serious cases as determined by the court.

Prior to the first jury trial scheduled to take place while this plan is in effect, a “run-through/mock trial” may be scheduled with available members of the committee and other courthouse personnel substituting for the litigants, attorneys, and jurors. The participants should simulate the location of the participants during each portion of the trial process, including jury selection, opening statements, examination of witnesses, the excusal of jurors to the jury-assembly room, and closing argument. All participants in the “run-through/mock trial” will use the required precautions set forth above. Any feedback from the participants may be provided to the chairs of the state and superior court working groups and shared among the committee members.

## **5. Protection of Constitutional and Statutory Rights for Litigants, Witnesses, Victims and Observers**

In the event that the courtroom seating capacity is insufficient to accommodate all those persons who wish to attend, priority for courtroom seating in criminal cases shall be given to the victim or victim’s family and the family of the Defendant and then to the public on a first-come, first-served basis. Those who cannot be accommodated shall be provided with access to view the proceedings remotely. Remote access may be provided by either “broadcast” of the proceeding to a monitor in another location within the facility or in the Courthouse where additional seating is available or by providing remote access to a link whereby the proceedings may be viewed online, or both. In any event where members of the public are accommodated by remote access, the proceedings shall be accessible with “live” sound and video.

## **6. Public Notification of Public Health Precautions Taken by the Court**

This plan will be posted on the Court’s website.

#### **IV. Mitigation Plan**

We will follow all guidelines for convening jury trials issued by the Department of Public Health. In the event that there is an exposure or a positive COVID-19 case the following steps will be taken:

- If all jurors were distanced properly, in line with DPH guidelines, then the proceedings will continue.
- If all jurors were not distanced properly, in line with DPH guidelines, then a staff member, assigned as the COVID monitor, will identify all the close contacts that were around that individual. Close contact is defined as within 6 feet (masked or not) for a cumulative 15 minutes.
  - If the person was asymptomatic, the exposure timeframe starts from date of test and goes back 48 hours.
  - If the person was symptomatic, the exposure timeframe starts from symptom onset and goes back 48 hours.
- If someone was within 6 feet of the COVID positive juror for more than 15 minutes cumulatively, they must quarantine, whether or not they were wearing a mask.
- Contact tracing should follow every movement that the individual made in the courthouse, so that all contacts are able to be quarantined to prevent spread.
- Those individuals that did not meet the close contact definition should check temperatures twice a day and monitor for any symptoms for 14 days.
- The staff member assigned as the COVID monitor will alert Donovan Stephens, at the Department of Public Health, and that agency will assign an investigator to facilitate the contact tracing and further assess the situation for feasibility.

We have developed this plan in close communication with the Department of Public Health and they remain ready and willing to assist in managing any situation that arises.

Submitted, this 1<sup>st</sup> day of June, 2021.

/s/  
BEN W STUDDARD III, CHIEF JUDGE  
STATE COURT OF HENRY COUNTY